

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
AT MARTINSBURG**

FRED D. CARVER,

Plaintiff,

v.

**Civil Action No. 1:04CV190
(BROADWATER)**

**JO ANNE B. BARNHART,
COMMISSIONER, SOCIAL
SECURITY ADMINISTRATION,**

Defendant.

**ORDER ADOPTING REPORT AND RECOMMENDATION AND REMANDING CASE
TO COMMISSIONER FOR FURTHER PROCEEDINGS**

On this day the above styled case came before the Court for consideration of the Report and Recommendation of Magistrate Judge John S. Kaull, dated August 26, 2005. To date, Plaintiff has not filed objections to the Report.


The Court, after reviewing the above, is of the opinion that the Magistrate Judge's Report and Recommendation should be and is hereby **ORDERED** adopted.

The Court, therefore, **ORDERS** that Defendant's motion for summary judgment (**Docket number 20**) be **DENIED**. The Court **ORDERS** that Plaintiff's motion for summary judgment (**Docket numbers 14, 15, 16**) be **GRANTED IN PART**. It is further **ORDERED** that this action be **REMANDED** to the Commissioner for proceedings consistent with the Report and Recommendation and **STRICKEN** from the active docket of this Court.

It is so **ORDERED**.

The Clerk is directed to transmit true copies of this Order to the petitioner and all counsel of record herein.

DATED this **20th** day of September 2005.


W. CRAIG BROADWATER
UNITED STATES DISTRICT JUDGE